

AMENDED IN ASSEMBLY MAY 3, 2006

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2163

Introduced by Assembly Member Nava

February 21, 2006

An act to amend Sections 37252.8 and 51745 of, to add Sections 46145.3, 46145.5, 48200.3, and 51747.2 to, and to repeal and add Section 46145 of, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 2163, as amended, Nava. Pupils: Supplemental instruction.

(1) Existing law authorizes the governing board of a school district and a charter school maintaining any of grades 2 to 6, inclusive, to offer programs of direct, systematic, and intensive supplemental instruction to a pupil enrolled in grades 2 to 6, inclusive, who has been identified as having a deficiency in mathematics, reading, or written expression based on the results of a test administered under the Standardized Testing and Reporting (STAR) Program or who has been identified as being at risk of retention.

Existing law authorizes a school district or charter school that offers the specified supplemental instruction to receive reimbursement in an amount up to 5% of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified, with the balance of any appropriation made for these purposes to be allocated for reimbursement for supplemental instruction where pupil attendance in

the supplemental instruction is in excess of 5%, but not in excess of 7%, of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified.

This bill, instead, would authorize a school district or charter school that offers the specified supplemental instruction to receive reimbursement in an amount up to 10% of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified, with the balance of any appropriation made for these purposes to be allocated for reimbursement for supplemental instruction where pupil attendance in the supplemental instruction is in excess of 10%, but not in excess of 15%, of the total enrollment of the school district or charter school in grades 2 to 6, inclusive, for the prior fiscal year multiplied by 120 hours, multiplied by the hourly rate for the current fiscal year, determined as specified.

This bill would authorize the governing board of a school district and a charter school maintaining any of grades 7 to 12, inclusive, to offer programs of direct, systematic, and intensive supplemental instruction to a pupil who has not demonstrated readiness to pass the California High School Exit Examination who meets a specified criterion.

(2) Existing law requires pupils in grade 12 to be enrolled in at least 5 courses each semester or the equivalent number of courses per quarter. If any pupil who is subject to this requirement is required by a medical prescription to attend school for less than 5 courses during the semester or the equivalent number of courses during the quarter, the average daily attendance allowed for that pupil's attendance is required to bear the same proportion to one day of attendance as the number of courses in which the pupil is enrolled bears to 5 or the equivalent number for the quarter system.

This bill, notwithstanding the requirement in existing law specified above, commencing with the first semester or quarter that begins after January 1, 2007, would require pupils in grade 12 who have not passed the California High School Exit Examination, or who have been determined under governing school board policy to be deficient in the credits required for high school graduation, to be enrolled full-time in at least 6 courses each semester or the equivalent number

of courses per quarter. The bill would require that if any pupil who is subject to this provision is required by a medical prescription to attend school for less than 6 courses during the semester or the equivalent number of courses during the quarter, the average daily attendance allowed for that pupil's attendance bears the same proportion to one day of attendance as the number of courses in which the pupil is enrolled bears to 6 or the equivalent number for the quarter system.

The bill would prohibit a school district from allowing a pupil who has not passed the California High School Exit Examination to enroll in work experience education programs or office assistant courses.

The bill would authorize a school district to authorize a pupil in grade 12 who is 18 years of age or older and has not passed the California High School Exit Examination to attend a minimum schoolday, as defined, if the pupil signs a statement indicating that he or she is fully informed of the potential consequences of attending school less than full time.

The bill would authorize a school district to authorize a pupil in grade 12 who is less than 18 years of age and has not passed the California High School Exit Examination to attend a minimum schoolday, if the pupil and the pupil's parent or legal guardian both sign a statement indicating that they are fully informed of the potential consequences of attending school less than full time.

The bill would require a school district to require each high school within its jurisdiction to enroll any pupil in grade 12 who has not passed the California High School Exit Examination, or is deficient in the credits required for high school graduation, in rigorous challenging programs or courses to prepare the pupil to pass the examination, prepare the pupil to meet state and local graduation requirements, prepare the pupil for postsecondary education and training, and provide the pupil with career options and skills.

The bill would require a school district to require each high school within its jurisdiction to offer and schedule an individual conference with each pupil, his or her parent or legal guardian, and a school representative, immediately prior to commencement of grade 12, to provide a review of the pupil's status in passing the examination and develop a written individualized learning plan to assist the pupil in reaching his or her educational and career goals.

The bill would require the governing board of a school district and a charter school maintaining any of grades 7 to 12, inclusive, to provide a pupil who is determined to be at the far below basic level on

a test administered under the STAR Program with intensive instructional services designed to prepare the pupil to pass the California High School Exit Examination. The bill would, commencing in grade 7 and annually thereafter through grade 11, require a school district to require each school within its jurisdiction to develop a written individualized learning plan, as provided, for the pupil. The bill would require each school to offer and schedule an individual conference with the pupil, his or her parent or legal guardian, and a school representative to develop the individualized learning plan.

The bill would require a school district to allow a pupil who is 18 years of age or older and enrolled in grade 12 to complete that school year in a high school program, as determined by governing board policy. The bill would require a school district to allow a pupil who has not completed all high school graduation requirements or passed both sections of the California High School Exit Examination on or before the end of the fourth year of high school to enroll in and attend a high school program during the next school year, as determined by governing board policy, if the pupil enrolls in the fifth year of high school before attaining 19 years of age. The bill would require a school district to provide the pupil with specified educational options that provide intensive instruction, pursuant to an individualized learning plan for each pupil, for enrollment of pupils beyond the fourth year of high school, if the pupil is making progress under governing board policy towards completion of graduation requirements. The bill would exempt a pupil subject to these provisions from the requirement above that pupils in grade 12 who have not passed the California High School Exit Examination, or who have been determined under governing school board policy to be deficient in the credits required for high school graduation, to be enrolled full-time in at least 6 courses each semester or the equivalent number of courses per quarter.

Because these requirements would impose additional duties on school districts, the bill would establish a state-mandated local program.

(3) Existing law prohibits more than 10% of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the State Department of Education, from being eligible for apportionment credit for independent study. A pupil who is pregnant, or a pupil who is a parent and is the primary

caregiver for one or more of his or her children, is not counted within the specified 10% cap.

This bill would prohibit a pupil who has not passed the California High School Exit Examination from being counted within the specified 10% cap.

The bill would prohibit a school district or county office of education from being eligible to receive apportionments for independent study by pupils, regardless of age, unless it has adopted written policies, and has implemented those policies, pursuant to rules and regulations adopted by the Superintendent of Public Instruction that include (a) a requirement that the school district or county office of education use a diagnostic evaluation or assessment tool to evaluate the academic achievement of each pupil who applies for independent study, and evaluate the pupil's ability to work independently under the general supervision of a credentialed teacher or teachers, for the purpose of providing appropriate interventions and individualized assistance to enable each pupil to be successful in independent study; and (b) a requirement that all pupils who choose independent study be provided with the level of support and materials necessary for pupil success.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 37252.8 of the Education Code is
2 amended to read:
3 37252.8. (a) The governing board of a school district and a
4 charter school maintaining any of grades 2 to 6, inclusive, may
5 offer programs of direct, systematic, and intensive supplemental
6 instruction to a pupil enrolled in any of grades 2 to 6, inclusive,
7 who meets either of the following criteria:

(1) The pupil has been identified as having a deficiency in mathematics, reading, or written expression based on the results of a test administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33.

(2) The pupil has been identified as being at risk of retention pursuant to Section 48070.5.

(b) The governing board of a school district and a charter school maintaining any of grades 7 to 12, inclusive, may offer programs of direct, systematic, and intensive supplemental instruction to a pupil who has not demonstrated readiness to pass the California High School Exit Examination who meets either of the following criteria:

(1) The pupil has been identified during grades 7 and 8 as having a deficiency in mathematics and English language arts achievement based on the results of a test administered under the Standardized Testing and Reporting Program established pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33, and is determined to be at the far below basic level.

(2) The pupil is in high school, has taken and not passed the California High School Exit Examination, and is determined to be seriously deficient in mathematics and English language arts achievement under specifications recommended by the Superintendent and approved by the state board.

~~(b)~~

(c) Supplemental educational services offered pursuant to this section may be offered during the summer, before school, after school, on Saturdays, or during intersession, or in a combination of summer school, before school, after school, Saturday, or intersession instruction. Supplemental educational services may be offered during summer bridge programs for pupils in grades 7 to 12, inclusive, determined to be at the far below basic level on a test administered under the Standardized Testing and Reporting Program. Services shall not be provided during the regular instructional day of the pupil. A minor pupil whose parent or guardian informs the school district that the pupil is unable to attend a Saturday school program for religious reasons, or a pupil 18 years of age or older who states that he or she is unable to attend a Saturday school program for religious reasons,

1 shall be given priority for enrollment in supplemental instruction
2 offered at a time other than Saturday, over a pupil who is not
3 unable to attend a Saturday school program for religious reasons.

4 (e)

5 (d) For purposes of this section, a pupil shall be considered to
6 be enrolled in a grade immediately upon completion of the
7 preceding grade. Summer school instruction may also be offered
8 to a pupil who was enrolled in grade 6 during the prior school
9 year.

10 (d)

11 (e) An intensive remedial program in reading or written
12 expression offered pursuant to this section shall, as needed,
13 include instruction in phoneme awareness, systematic explicit
14 phonics and decoding, word attack skills, spelling and
15 vocabulary, explicit instruction of reading comprehension,
16 writing, and study skills.

17 (e)

18 (f) A school district or charter school shall seek the active
19 involvement of parents and classroom teachers in the
20 development and implementation of supplemental instructional
21 programs provided pursuant to this section.

22 (f)

23 (g) It is the intent of the Legislature that a pupil who is at risk
24 of failing to meet state-adopted standards, or who is at risk of
25 retention, be identified as early in the school year, and as early in
26 his or her school-careers *career* as possible and be provided the
27 opportunity for supplemental instruction sufficient to assist him
28 or her in attaining expected levels of academic achievement.

29 (g)

30 (h) (1) A school district or charter school that offers
31 instruction pursuant to this section shall be entitled to receive
32 reimbursement in an amount up to 10 percent of the total
33 enrollment of the school district or charter school in grades 2 to
34 6, inclusive, for the prior fiscal year multiplied by 120 hours,
35 multiplied by the hourly rate for the current fiscal year
36 determined pursuant to subdivision (b) of Section 42239.

37 (2) The balance of the appropriation made for the purposes of
38 funding programs offered pursuant to this section to serve pupils
39 in grades 2 to 6, inclusive, shall be allocated for reimbursement
40 of pupil attendance in instruction pursuant to subdivision (a) that

1 is in excess of 10 percent, but not in excess of 15 percent, of the
2 enrollment of the school district or charter school for the prior
3 year in grades 2 to 6, inclusive, multiplied by 120 hours,
4 multiplied by the hourly rate for the current fiscal year
5 determined pursuant to subdivision (b) of Section 42239.

6 ~~(h)~~

7 (i) Notwithstanding any other provision of law, neither the
8 state board nor the Superintendent may waive any provision of
9 this section.

10 SEC. 2. Section 46145 of the Education Code is repealed.

11 SEC. 3. Section 46145 is added to the Education Code, to
12 read:

13 46145. (a) The Legislature hereby finds and declares all of
14 the following:

15 (1) It is the fundamental purpose of the educational system in
16 California to equip all pupils ~~who have not passed the California~~
17 ~~High School Exit Examination~~ with the knowledge and skills to
18 succeed in postsecondary education and careers, and as parents
19 and citizens.

20 (2) Pupils who do not graduate are six times more likely to
21 live in poverty than those with a high school diploma. Pupils who
22 graduate with a diploma from high school earn twice as much on
23 average than those who drop out of high school. Individuals with
24 some college or advanced training earn on average twice that of
25 individuals with a high school diploma, and individuals with a
26 bachelor's degree earn over three times that of individuals with a
27 high school diploma, over the course of a lifetime.

28 (3) The costs to society, business, and the individual of failing
29 to complete a high school education are many and varied. These
30 costs include behavioral and human elements, economic
31 consequences, such as reduction in personal income and loss in
32 state revenue, and increased public assistance and involvement in
33 the penal system.

34 (4) Pupils who want to earn a high school diploma and who
35 have not passed the California High School Exit Examination or
36 completed all other graduation requirements by the end of grade
37 12 must be provided options to continue to develop their
38 academic and technical skills in an appropriate educational
39 setting with a full range of appropriate educational support.

1 (5) Often, pupils, parents, educators, and policymakers have
2 demonstrated concern over the lack of rigor and relevance of the
3 senior year and the resulting time and opportunity that is lost.

4 (6) Assisting pupils to graduate from high school, and
5 thoroughly preparing pupils for transition to, and success in,
6 postsecondary education and careers is imperative to California's
7 economic development and the quality of life for its residents.

8 (b) (1) Pupils in grade 12 shall be enrolled in at least five
9 courses each semester or the equivalent number of courses per
10 quarter. If any pupil who is subject to this paragraph is required
11 by a medical prescription to attend school for less than five
12 courses during the semester or the equivalent number of courses
13 during the quarter, the average daily attendance allowed for that
14 pupil's attendance shall bear the same proportion to one day of
15 attendance as the number of courses in which the pupil is
16 enrolled bears to five or the equivalent number for the quarter
17 system.

18 (2) Notwithstanding paragraph (1), commencing with the first
19 semester or quarter that begins after January 1, 2007, pupils in
20 grade 12 who have not passed the California High School Exit
21 Examination, or who have been determined under governing
22 school board policy to be deficient in the credits required for high
23 school graduation, shall be enrolled full-time in at least six
24 courses each semester or the equivalent number of courses per
25 quarter. If any pupil who is subject to this paragraph is required
26 by a medical prescription to attend school for less than six
27 courses during the semester or the equivalent number of courses
28 during the quarter, the average daily attendance allowed for that
29 pupil's attendance shall bear the same proportion to one day of
30 attendance as the number of courses in which the pupil is
31 enrolled bears to six or the equivalent number for the quarter
32 system.

33 (c) Subdivision (b) does not apply to pupils enrolled in a
34 regional occupational program, a regional occupational center, a
35 course at an accredited postsecondary educational institution,
36 independent study, a special education program where the pupil's
37 individualized education program establishes a different number
38 of courses, a continuation high school, a county community
39 school, a county court school, or a registered apprenticeship
40 program or apprenticeship preparation program, or any other

1 course of study authorized by the governing board that is
2 equivalent to the approved high school course of study.

3 SEC. 4. Section 46145.3 is added to the Education Code, to
4 read:

5 46145.3. (a) A school district shall not allow a pupil who has
6 not passed the California High School Exit Examination to enroll
7 in work experience education programs approved under Article 7
8 (commencing with Section 51760) of Chapter 5 of Part 28, or in
9 office assistant courses.

10 (b) A school district may authorize a pupil in grade 12 who is
11 18 years of age or older and has not passed the California High
12 School Exit Examination to attend a minimum schoolday, as
13 defined in Section 46141, if the pupil signs a statement indicating
14 that he or she is fully informed of the potential consequences of
15 attending school less than full time.

16 (c) A school district may authorize a pupil in grade 12 who is
17 less than 18 years of age and has not passed the California High
18 School Exit Examination to attend a minimum schoolday, as
19 defined in Section 46141, if the pupil and the pupil's parent or
20 legal guardian both sign a statement indicating that they are fully
21 informed of the potential consequences of attending school less
22 than full time.

23 SEC. 5. Section 46145.5 is added to the Education Code, to
24 read:

25 46145.5. (a) A school district shall require each high school
26 within its jurisdiction to enroll any pupil in grade 12 who has not
27 passed the California High School Exit Examination, or is
28 deficient in the credits required for high school graduation, in
29 rigorous challenging programs or courses to prepare the pupil to
30 pass the examination, prepare the pupil to meet state and local
31 graduation requirements, prepare the pupil for postsecondary
32 education and training, and provide the pupil with career options
33 and skills.

34 (b) A school district shall require each high school within its
35 jurisdiction to offer and schedule an individual conference with
36 each pupil, his or her parent or legal guardian, and a school
37 representative, immediately prior to commencement of grade 12.

38 (1) The school representative shall review the pupil's status in
39 passing the examination. The parent or legal guardian and the
40 pupil shall be apprised of the consequences of not passing the

1 examination and of the programs, courses, and options available
2 for pupils who have not passed the examination.

3 (2) The school representative shall review the pupil's
4 cumulative records, transcript, progress towards completing the
5 graduation requirements, performance on standardized and
6 diagnostic assessments, related remediation strategies, available
7 high school courses, alternative education options, and
8 information on postsecondary education and training.

9 (3) The school representative and the pupil shall develop a
10 written individualized learning plan to assist the pupil in reaching
11 his or her educational and career goals. The plan shall include the
12 courses and experiences necessary to pass the California High
13 School Exit Examination, complete high school, and transition to
14 postsecondary education or employment. A copy of the plan shall
15 be given to the parent or legal guardian and the pupil.

16 *(c) The governing board of a school district and a charter
17 school maintaining any of grades 7 to 12, inclusive, shall provide
18 a pupil who is determined to be at the far below basic level on a
19 test administered under the Standardized Testing and Reporting
20 Program, established pursuant to Article 4 (commencing with
21 Section 60640) of Chapter 5 of Part 33, with intensive
22 instructional services designed to prepare the pupil to pass the
23 California High School Exit Examination.*

24 *(1) Commencing in grade 7, and annually thereafter through
25 grade 11, a school district shall require each school within its
26 jurisdiction to develop a written individualized learning plan to
27 assist the pupil determined to be at the far below basic level in
28 preparing to pass the California High School Exit Examination
29 and for reaching his or her educational and career goals.*

30 *(2) Each school shall offer and schedule an individual
31 conference with each pupil determined to be at the far below
32 basic level, his or her parent or legal guardian, and a school
33 representative to develop the individualized learning plan. A
34 copy of the plan shall be given to the parent or legal guardian
35 and the pupil.*

36 *(3) During the conference the school representative shall
37 review, with the pupil and the parent or legal guardian of the
38 pupil, the pupil's cumulative records, transcript, performance on
39 standardized and diagnostic assessments, related remediation
40 strategies, available high school courses, alternative education*

1 *options, and, when appropriate, information on progress towards*
2 *completing the graduation requirements and on postsecondary*
3 *education and training.*

4 *(4) The individualized learning plan shall include all*
5 *necessary and available instructional strategies and programs*
6 *and support services to ensure that every resource is considered*
7 *and brought to bear to assist the pupil in improving his or her*
8 *achievement in English language arts and mathematics.*

9 SEC. 6. Section 48200.3 is added to the Education Code, to
10 read:

11 48200.3. (a) The school district shall allow a pupil who is 18
12 years of age or older and enrolled in grade 12 to complete that
13 school year in a high school program, as determined by
14 governing board policy.

15 (b) The school district shall allow a pupil who has not
16 completed all high school graduation requirements or passed
17 both sections of the California High School Exit Examination on
18 or before the end of the fourth year of high school to enroll in
19 and attend a high school program during the next school year, as
20 determined by governing board policy, if the pupil enrolls in the
21 fifth year of high school upon or before attaining 19 years of age.

22 (c) The school district shall provide the pupil with educational
23 options that provide intensive instruction, pursuant to an
24 individualized learning plan for each pupil, for enrollment of
25 pupils beyond the fourth year of high school, if the pupil is
26 making progress under governing board policy towards
27 completion of graduation requirements. These options shall
28 include, but are not limited to, all of the following:

- 29 (1) Comprehensive high school.
- 30 (2) Continuation high school.
- 31 (3) Independent study.
- 32 (4) Charter school.
- 33 (5) Community day school.
- 34 (6) Opportunity school.
- 35 (7) County court school.
- 36 (8) County community school.
- 37 (9) Adult school.
- 38 (10) Other alternative school.

39 (d) A pupil who is subject to this section is not subject to
40 paragraph (2) of subdivision (b) of Section 46145.

SEC. 7. Section 51745 of the Education Code is amended to read:

51745. (a) Commencing with the 1990–91 school year, the governing board of a school district or a county office of education may offer independent study to meet the educational needs of pupils in accordance with the requirements of this article. Educational opportunities offered through independent study may include, but shall not be limited to, the following:

(1) Special assignments extending the content of regular courses of instruction.

(2) Individualized study in a particular area of interest or in a subject not currently available in the regular school curriculum.

(3) Individualized alternative education designed to teach the knowledge and skills of the core curriculum. Independent study shall not be provided as an alternative curriculum.

(4) Continuing and special study during travel.

(5) Volunteer community service activities that support and strengthen pupil achievement.

(b) Not more than 10 percent of the pupils participating in an opportunity school or program, or a continuation high school, calculated as specified by the department, shall be eligible for apportionment credit for independent study pursuant to this article. A pupil who is pregnant, or a pupil who is a parent and is the primary caregiver for one or more of his or her children, shall not be counted within the 10 percent cap. A pupil who has not passed the California High School Exit Examination shall not be counted within the 10 percent cap.

(c) No individual with exceptional needs, as defined in Section 56026, may participate in independent study, unless his or her individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for that participation.

(d) No temporarily disabled pupil may receive individual instruction pursuant to Section 48206.3 through independent study.

(e) No course included among the courses required for high school graduation under Section 51225.3 shall be offered exclusively through independent study.

SEC. 8. Section 51747.2 is added to the Education Code, to read:

1 51747.2. A school district or county office of education is not
2 eligible to receive apportionments for independent study by
3 pupils, regardless of age, unless it has adopted written policies,
4 and has implemented those policies, pursuant to rules and
5 regulations adopted by the Superintendent that include, but are
6 not limited to, all of the following:

7 (a) For each pupil who applies for independent study, a school
8 district or county office of education shall use a diagnostic
9 evaluation or assessment tool to evaluate the pupil's academic
10 achievement, and shall evaluate the pupil's ability to work
11 independently under the general supervision of a credentialed
12 teacher or teachers. Based on this evaluation the school district or
13 county office of education shall provide appropriate interventions
14 and individualized assistance to enable each pupil to be
15 successful in independent study. As a result of the diagnostic
16 evaluation or assessment, pupils performing below grade level
17 shall be provided with additional instructional opportunities,
18 including direct instruction of the pupil by a credentialed teacher
19 or teachers on at least a weekly basis.

20 (b) All pupils who choose independent study shall be provided
21 with the level of support and materials necessary for pupil
22 success, including, but not limited to, a learning program aligned
23 to state academic content standards and suitable to the individual
24 pupil's needs.

25 (c) The requirements of this section do not apply to
26 classroom-based pupils who must be absent from the classroom
27 on a temporary basis and who utilize independent study for those
28 periods of absence.

29 SEC. 9. If the Commission on State Mandates determines that
30 this act contains costs mandated by the state, reimbursement to
31 local agencies and school districts for those costs shall be made
32 pursuant to Part 7 (commencing with Section 17500) of Division
33 4 of Title 2 of the Government Code.